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November 6, 2003
Scott W. Kelley, Reg. No. 30,762

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	Group Art Unit: 3205
Robert R. Reaver, et al.	Examiner: Rowan, Kurt C.
Serial No. 08/428,918	
Filed: April 25, 1995	Docket No. REAV-35008
For: COMBINATION FLY SWATTER AND INSECT TRAP	

Woodland Hills, California

FOURTH SUPPLEMENTAL DECLARATION OF ROBERT R. REAVER AND CAROL REAVER

MS: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. As the below-named inventors, we hereby declare that:

2. Our residence, post office address and citizenship are as stated below next to our names.

3. We believe we are the original, first and joint inventors of the subject matter which is described and claimed in U.S. Patent No. 5,207,018, granted May 4, 1993, and in reissue patent application serial number 08/428,918 filed April 25, 1995.

4. We hereby state that we have reviewed and understand the contents of the reissue patent application specification, including the claims.

5. We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

6. We believe the original patent to be partly inoperative or invalid because of error without any deceptive intent on the part of the Applicants, by reason that we claimed less than we had a right to claim in the above-identified U.S. Letters Patent.

7. To recap the events which led to our discovery of the errors leading to this reissue application, since the issuance of U.S. Patent No. 5,207,018 on May 4, 1993, we have been actively designing and redesigning various models of combination fly swatters and insect traps which embody our invention, in order to find a design that could be economically manufactured.

8. To the point of filing the reissue patent application, we had designed ten different types of combination fly swatters and insect traps embodying our invention, but it wasn't until the ninth prototype that we discovered a particular design that could be mass-produced at a reasonable price to provide a product of acceptable quality.

9. Neither my wife nor I were familiar with the various molding techniques available to manufacture a combination fly swatter and insect trap of

the present invention at the time our original patent No. 5,207,018 issued May 4, 1993. Subsequently, in connection with our development of the combination fly swatter and insect trap, we have learned a great deal, and determined that it is important that a product embodying our invention be capable of being mass-produced using vacuum thermoform molding methods. Prior to this discovery on our part, we attempted to pursue manufacture of products embodying our invention as claimed in the '018 patent that required injection molding techniques. The mold expense ($20,000.00 to $30,000.00) is too great for this particular product. However, vacuum thermoform machines are available today, as we have learned during our investigation, that require only a few thousand dollars in tooling to produce a high quality of product in a short amount of time at a competitive price.

10. After settling upon a design embodying our invention that can also be manufactured using vacuum thermoform molding techniques, Robert R. Reaver met with our patent attorney, Scott W. Kelley, Esq., to compare the claims of our patent No. 5,207,018 against a new prototype. We were informed that none of our issued patent claims read literally on our new prototype.

11. In particular, our new prototype includes a planar closure member which cannot be characterized as "mesh". This limitation, however, is found in each of the issued claims. We believe that requiring devices embodying our invention to have a "mesh" closure member would needlessly and prohibitively increase the cost of the end product.

12. During our meeting with Mr. Kelley we were also informed that the recitation of "a rear slide clamp" might be interpreted too narrowly in view of our new prototypes, although these prototypes include functionally equivalent

structure. We were advised that language such as "rear slide clamp means on the rear end portion of the closure member through which the handle slidably extends" more clearly and directly reads on our new prototypes, wherein the rear end portion of our molded closure member actually provides the clamp onto the handle, rather than a separate member.

13. As a result of our discussions with Mr. Kelley we decided that it was important to make relatively minor adjustments to our patent claims to ensure that product embodying our invention is clearly covered and protected by our patent. We, therefore, authorized the preparation and filing of this application.

14. Prior to filing the reissue patent application, we became convinced that the limitation of the "mesh" closure member was unnecessary to the invention, that such a limitation was included due to an oversight by both of us, and that this constituted a mistake of sufficient magnitude to warrant the filing of a reissue application. Additionally, and also prior to filing the reissue patent application, we became convinced that the recitation of "a rear slide clamp attached to the rear end portion of the mesh closure member, having a central notch through which the handle slidably extends" could be interpreted so as to not literally cover our new prototype embodying the invention, and that it would be desirable to correct the claim language as set forth in paragraph 12 above.

15. Accordingly, claims 4, 6, and 11 have been cancelled, new claim 20 added, and claims 1, 3, 4, 5, 8, 9, and 12 -17 of the original issued U.S. Patent No. 5,207,018 have been changed as follows (reference to line numbers are to the line numbers of the claims appearing in the issued patent):

1. (Twice Amended) A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

an elongate handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, and [a] track means positioned adjacent to an edge of the compartment aperture;

a planar [mesh] closure member supported [within] by the track means and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the [mesh] closure member covers the compartment aperture, wherein the housing and the [mesh] closure member, in its extended position, cooperatively provide a fly swatter; [and]

means for slidably supporting a rear end portion of the [mesh] closure member relative to the handle, including a rear slide clamp attached to the rear end portion of the [mesh] closure member, having a central notch through which the handle slidably extends; and

means for limiting the extent of movement of the closure member between the retracted position and the extended position, including a bumper

fixed to the handle to prevent rearward movement of the closure member beyond the retracted position.

3. (Amended) An apparatus as set forth in claim 1, wherein the track means comprises two parallel channels which define two sides of the compartment aperture, wherein the channels are arranged to support a front end portion of the [mesh] closure member throughout its range of motion between the retracted and extended positions.

4. (Cancelled)

5. (Twice Amended) An apparatus as set forth in claim [4] 1, wherein the closure member movement limiting means includes a housing bumper enclosing a front end of the track means to prevent movement of the closure member beyond the front end of the compartment aperture as defined by the housing.

6. (Cancelled)

8. (Amended) An apparatus as set forth in claim 1, wherein the housing includes a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track means designed to support a front end portion of the [mesh] closure member when place in its retracted position.

9. (Twice Amended) A dual purpose apparatus providing, alternatively, an insect trap and a fly swatter, the apparatus comprising:

an elongate, resiliently flexible handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle, the housing defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing further includes a projection extending rearwardly from the insect trap compartment, for supporting a front end portion of the slidable means when placed in its retracted position;

means slidable with respect to the handle and the housing in a plane between a retracted position and an extended position, for covering the insect trap compartment aperture in the extended position, and for uncovering said compartment aperture in the retracted position to permit access to the insect trap compartment, wherein the slidable means, in the extended position, and the housing cooperatively provide a fly swatter;

wherein the slidable means comprises a planar [mesh] closure member, and wherein the housing includes a track for the closure member, the track comprising two parallel channels which define two sides of the compartment aperture, wherein the channels are arranged to support a front end portion of the closure member throughout its range of motion between the retracted and extended positions; and

a rear slide clamp attached to a rear end portion of the [mesh] closure member, having a central notch through which the handle slidably extends, which provides means for slidably supporting the rear end portion of the [mesh] closure member relative to the handle.

11. (Cancelled)

12. (Twice Amended) An apparatus as set forth in claim [11] 9, wherein the housing is generally transparent and the upper wall thereof includes a plurality of small apertures which allow air and water to pass but which are not large enough to permit a roach-sized insect to escape therethrough.

13. (Twice Amended) An apparatus as set forth in claim 9, including means for limiting the extent of movement of the [mesh] closure member between the retracted position and the extended position, wherein the closure member movement limiting means includes a housing bumper enclosing a front end of the track to prevent movement of the closure member beyond a front end of the compartment aperture as defined by the housing, and a rear bumper fixed to the handle and designed to engage the rear slide clamp to prevent rearward movement of the closure member beyond the retracted position.

14. (Twice Amended) A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

an elongate, resiliently flexible handle of a generally rectangular cross-sectional configuration, having a rear end intended to be grasped by a user, and a front end;

a rigid, generally transparent housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing

including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, wherein the upper wall includes a plurality of small apertures which allow air and water to pass but which are not large enough to permit a roach-sized insect to escape therethrough, the housing further including a projection which extends rearwardly from a side wall adjacent to the handle;

a track including two parallel channels which define two sides of the compartment aperture, wherein the track is supported by side walls and the rearward projection of the housing;

a planar [mesh] closure member supported within the track and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the [mesh] closure member covers the compartment aperture, wherein the housing and the [mesh] closure member, in its extended position, cooperatively provide a fly swatter; and

a rear slide clamp attached to a rear end portion of the mesh closure member, having a central notch through which the handle slidably extends, for slidably supporting the rear end portion of the [mesh] closure member relative to the handle.

15. (Amended) An apparatus as set forth in claim 14, including means for limiting the extent of movement of the [mesh] closure member between the retracted position and the extended position.

16. (Twice Amended) An apparatus as set forth in claim 15, wherein the closure member movement limiting means includes a housing bumper enclosing a front end of the track to prevent movement of the closure member beyond a front end of the compartment aperture as defined by the housing, and a rear bumper affixed to the handle to prevent rearward movement of the closure member beyond the retracted position, the rear bumper being so situated so as to position the front end portion of the [mesh] closure member within the portion of the track supported by the rear housing projection when the [mesh] closure member is in its retracted position.

17. (Twice Amended) A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

an elongate handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, and a track positioned adjacent to an edge of the compartment aperture;

a frameless planar [mesh] closure member supported within the track and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the [mesh] closure member covers the compartment aperture, wherein

the housing and the [mesh] closure member, in its extended position, cooperatively provide a fly swatter;

a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track designed to support a front end portion of the [mesh] closure member when placed in its retracted position; and

a rear slide clamp attached to the rear end portion of the [mesh] closure member, having a central notch through which the handle slidably extends.

18. (Amended) An apparatus as set forth in claim 17, wherein the track comprises two parallel channels which define two sides of the compartment aperture, wherein the channels are arranged to support a front end portion of the [mesh] closure member throughout its range of motion between the retracted and extended positions.

20. (New) A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

an elongate handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment

aperture, and track means positioned adjacent to an edge of the compartment aperture;

a planar closure member supported by the track means and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the closure member covers the compartment aperture, wherein the housing and the closure member, in its extended position, cooperatively provide a fly swatter; and

means for slidably supporting a rear end portion of the closure member relative to the handle, including a rear slide clamp attached to the rear end portion of the closure member, having a central notch through which the handle slidably extends;

wherein the housing includes a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track means designed to support a front end portion of the closure member when placed in it's retracted position.

16. Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicants.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements or the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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